

(1) Have been produced and sheared from live sheep and goats, of domestic origin and located in the U.S. for a period of not less than 30 calendar days prior to shearing.

(2) Be of merchantable quality deemed by CCC to be suitable for loan and must have been shorn in the United States.

(e) When certifying acreage on farms in which an interest is held, the producer must provide acceptable evidence of the commodity from which the county committee may determine whether the eligible production claimed by the producer is reasonable for the production practices on such farm or similar farms in the same county; or have either the eligible or ineligible commodity measured by a representative of the county FSA service center at the producer's expense, before commingling.

#### § 1421.6 Beneficial interest.

(a)(1) To be eligible to receive marketing assistance loans or loan deficiency payments, a producer must have the beneficial interest in the commodity that is tendered to CCC for a marketing assistance loan or loan deficiency payment. The producer must always have had the beneficial interest in the commodity unless, before the commodity was harvested, sheared or slaughtered in the case of unshorn pelts, the producer, and a former producer whom the producer tendering the commodity to CCC has succeeded, had such an interest in the commodity. Commodities obtained by gift, barter or purchase shall not be eligible to be tendered to CCC for marketing assistance loans or loan deficiency payments. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent's obligations under an existing marketing assistance loan or loan deficiency payment shall be eligible to receive marketing assistance loans and loan deficiency payments whether succession to the commodity occurs before or after harvest, shearing or slaughter so long as the heir otherwise complies with this part.

(2) A producer shall not be considered to have divested the beneficial interest in the commodity if the producer retains control, title, and risk of loss in

the commodity, including the right to make all decisions regarding the tender of such commodity to CCC for marketing assistance loans or loan deficiency payments, including those cases where the producer takes either of the actions in paragraph (a)(2)(i) or (a)(2)(ii) of this section as follows:

(i) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to purchase, for such commodity if all other eligibility requirements are met and the option to purchase contains the following:

Notwithstanding any other provision of this option to purchase, title; risk of loss; and beneficial interest in the commodity, as specified in 7 CFR 1421.6, shall remain with the producer until the buyer exercises this option to purchase the commodity. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of:

(1) The maturity of any Commodity Credit Corporation (CCC) loan that is secured by such commodity;

(2) The date CCC claims title to such commodity; or

(3) Such other date as provided in this option;

(ii) Enters into a contract to sell the commodity if the producer retains title, risk of loss, and beneficial interest in the commodity and the purchaser pays no advance payment amount or any incentive payment amount to enter into such contract to the producer, except as provided in part 1425 of this chapter.

(3) If marketing assistance loans and loan deficiency payments are made available to producers through an approved CMA under part 1425 of this chapter, the beneficial interest in the commodity must always have been in the producer-member who delivered the commodity to the CMA or its member CMA's, except as otherwise provided in this section. Commodities delivered to such a CMA shall not be eligible to receive marketing assistance loans or loan deficiency payments if the producer-member who delivered the commodity does not retain the right to share in the proceeds from the marketing of the commodity as provided in part 1425 of this chapter.

## § 1421.7

(b) With respect to wool, mohair, dry peas, lentils and small chickpeas produced in the 2002 crop year, producers who lost beneficial interest before October 11, 2002 are eligible for a loan deficiency payment based on the date the producer lost beneficial interest in the applicable commodity.

(c) For peanuts produced in the 2002 crop year, producers who lost beneficial interest in the 2002 crop of peanuts are eligible for a loan deficiency payment based on the date the producer lost beneficial interest in the applicable commodity.

### **§ 1421.7 Requesting marketing assistance loans and loan deficiency payments.**

(a) A producer must, unless authorized by CCC, request marketing assistance loans and loan deficiency payments at the county office that, under part 718 of this title, is responsible for administering programs for the farm on which the commodity was produced.

(b) A marketing assistance loan or loan deficiency payment may be requested in person, by mail or electronic format designated by CCC. Forms prescribed by CCC may be obtained from the USDA, Farm Service Agency Web site.

(c) To receive marketing assistance loans or loan deficiency payments for a crop of a commodity, a producer must execute a note and security agreement or loan deficiency payment application on or before the applicable final loan availability date, as follows:

(1) March 31 of the year following the year in which the following crops are normally harvested: barley, canola, flaxseed, oats, rapeseed, and wheat.

(2) May 31 of the year following the year in which the following crops are normally harvested: corn, grain sorghum, mustard seed, rice, safflower, soybeans, sunflower seed, dry peas, lentils, and small chickpeas.

(3) January 31 of the year following the year in which peanuts are normally harvested or wool and mohair are normally sheared.

(d) With respect only to loan deficiency payments for eligible loan commodities produced in the 2001 crop year, whether or not produced on a farm covered by a production flexi-

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bility contract, the applicable final loan availability for such payment is November 12, 2002.

### **§ 1421.8 Eligible quantity.**

(a) With respect to marketing assistance loans and loan deficiency payments for:

(1) Farm-stored commodities, all determinations of weight, and quality, except as otherwise agreed to or required by CCC, shall be determined at the time of delivery of the commodity to CCC or at the time the loan deficiency payment application is filed for measured requests, if applicable or selected for spot-check for certified requests.

(2) Warehouse-stored commodities, all determinations of grade, weight and quality, except as otherwise agreed to or required by CCC, shall be determined at the time the loan or LDP is requested when acceptable documentation, under § 1421.106, accompanies the loan or LDP request.

(b)(1) A producer may, before the final date for obtaining a marketing assistance loan for a commodity, repledge as collateral for securing a marketing assistance loan any commodity that had been previously pledged as collateral for a marketing assistance loan, except with respect to:

(i) Commodities that have been acquired with commodity certificate exchanges under part 1401 of this chapter;

(ii) Commodities that have been redeemed at the prevailing world market price for rice, or the alternative repayment rate for all other commodities, as determined by CCC.

(iii) Commodities on which a loan deficiency payment has been received.

(2) The commodity repledged as security for the subsequent loan shall have the same maturity date, under § 1421.101 as the original loan.

(c)(1) The marketing assistance loan documents shall not be presented for disbursement unless the commodity subject to the note and security agreement is an eligible harvested commodity, is in existence, and is in approved farm or warehouse storage, as determined by CCC. If the commodity was not either an eligible commodity, in existence, or in approved storage at the time of disbursement, the total